

REMARKS

The above-identified application is United States application serial number 10/814,224 filed on April 1, 2004. Claims 1, 3-9, 11-16, 18-23, and 25-30 are pending in the application. Claims 5, 10, 17, and 24 are canceled. Claims 1, 3-9, 11-16, 18-23, and 25-30 are rejected. Applicant respectfully traverses these rejections.

Claim Objections

Claims 16, 19, and 23 are objected to and appropriate correction is required. In response, Applicant has replaced "the" to "a" in claim 16; "them" to --the-- in claim 19, and has inserted --executable by a processor-- in claim 23. Removal of the objections is respectfully requested.

Claim Rejections - 35 USC § 112

In response to the rejection under 35 USC § 112, claim 1 recites "the first VLAN and a second VLAN". Removal of the rejection under 35 USC § 112 is respectfully requested.

Claim Rejections - 35 USC § 103

Claims 1, 3-9, 11-16, 18-23, and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher *et al.* (USP 6,085,243) in view of Voit *et al.* (USP 7,042,880). Claim 1 recites:

"a processor configured to:
 automatically displaying an indication of the source in response
 to determining the source, wherein determining the
 source includes:
 determining top talker sources over the first VLAN and a
 second VLAN;
 determining VLAN identifiers for the top talker sources;
 and
 displaying the indication if the VLAN identifier of at least
 one of the top talker sources is not the same as
 the VLAN identifier of a VLAN being tested."

Claim 9 recites:

"determine a source associated with an amount of network traffic over a first set of nodes which exceeds a threshold,
determine whether the source is outside a group of network elements assigned to the first set of nodes by checking top talker data to determine which of a plurality of top talker sources are not from the first set of nodes, the processor configured to automatically send to the display an indication of the source in response to determining the source, wherein the first set of nodes is a first VLAN and the second set of nodes is a second VLAN."

Claim 16 recites

"a computer coupled with the first set of nodes and configured to determine a source associated with an amount of network traffic over the first set of nodes which exceeds a threshold, and to further determine whether the source is outside a group of network elements assigned to the first set of nodes by accessing source identifiers of top talker sources from management data, the computer configured to automatically display an indication of the source in response to determining the source, wherein the first set of nodes is a first VLAN and a second set of nodes is a second VLAN."

Claim 23 recites

"determining a source associated with an amount of network traffic over the first set of nodes which exceeds a threshold,
determining whether the source is outside a group of network elements assigned to the first set of nodes based on whether source identifiers for top talker sources are the same as a source identifier for the first set of nodes; and
automatically displaying an indication of the source in response to determining the source, wherein the first set of nodes is a first VLAN and the second set of nodes is a second VLAN."

These features are supported by at least paragraphs [0016], [0017], and [0021] of the specification. Voit is cited as teaching "top talkers as congestion based nodes that exceed the thresholds of specific nodes...and testing of VLAN that are not the same VLAN as the top talker sources or the congested sources." (Final Office Action, page 3, lines 22-26). Neither Voit or Fletcher teach or suggest the features as set forth in the claims, or as characterized by the Examiner, however. In particular, neither reference teaches or suggests determining a source with an amount of network traffic over a first set of nodes which exceeds a threshold, or determining which of a plurality of top talker sources are not from the first set of nodes. Instead, Voit teaches the ability to prioritize traffic for each customer to support QoS for the various services as required by service level agreements

between the customer and the carrier. (Voit, col. 19 lines 4-7, col. 20 lines 1-12). The switching device in Voit preferably queues the traffic to avoid downstream limitations that result in packets being dropped. (Voit, col. 20 lines 12-17). Voit further teaches customer-centric monitoring and testing of the elements of an ADN network that entails isolating communication through segments of the network and visibility of communication connectivity, congestion, and throughput on each isolated segment. (Voit, col. 28 line 62 through col. 29 line 6). Voit also teaches several classes of tests, such as connectivity tests, packet rate throughput tests, application level throughput test, Quality of Service tests, and case-specific query of relevant information. (Voit, col. 32 lines 25-50). The references, alone and in combination, do not disclose or suggest determining whether traffic exceeds a threshold, determining top talker sources, and displaying an indication of the source if the VLAN identifier of at least one of the top talker sources is not the same as the VLAN identifier of a VLAN being tested. While the references teach tracking or monitoring network traffic volume and errors, nothing in the references indicates which of the traffic sources are top talkers. (See, e.g., Fletcher col. 4 lines 47-51, and Voit col. 32 lines 26-50). The references also do not test whether the VLAN identifier of at least one of the top talker sources is the same as the VLAN identifier of a VLAN being tested before displaying the indicator of at least one of the top talker sources.

Claims 1, 9, 16, and 23 are distinguishable from the cited references for at least these reasons.

Claims 3-8, 11-15, 18-22, and 25-30 depend from respective claims 1, 9, 16, and 23 and include features that further distinguish them from the cited references. For example, claims 3, 11, 18, and 25 recite "the indication is a user name associated with the source." In contrast, Fletcher teaches an NDIS Desk Top Agent (DTA) that establishes a source of directed packets to analyze as well as means to communicate with the dRMON proxy. (Fletcher col. 8, lines 5-10). The dRMON proxy is not a username associated with a top talker source.

As a further example, claims 4, 12, 19, and 26 recite "reassigning the source to the first VLAN in response to determining the source." Voit is cited as teaching this feature, however, Voit instead only teaches reassigning an IP address to another user when the first user's session ends. (Voit, col. 24 lines 11-20 and 40-

47, and col. 25 lines 30-36). An IP address is not the same as a top talker source, nor is the IP address reassigned in response to determining the source.

CONCLUSION

The application, including all claims 1, 3-9, 11-16, 18-23, and 25-30, is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephone interview, the examiner is requested to contact the undersigned at (949)350-7301.

I hereby certify that this correspondence is being transmitted via electronic filing to the USPTO, on the date shown below:

/Mary Jo Bertani/
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May 27, 2009
(Date)

Respectfully submitted,

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